

Attorney Docket No.: 45112-077

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Steven M. BESSETTE

Application No.: 09/604,085

Filed: June 28, 2000

For: PESTICIDAL COMPOSITIONS CONTAINING PLANT ESSENTIAL OILS AGAINST MITES



Group Art Unit: 1651

Examiner: M. Flood

RECEIVED

AUG 03 2001

TECH CENTER 1600 2900

RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Office Action mailed May 1, 2001, Applicant hereby elects, with traverse, **Group I**, corresponding to **claims 1-6** for initial prosecution on the merits. Applicant respectfully submits that a restriction requirement between patentably distinct inventions is proper only when there is a serious burden on the Patent Office to examine all of the claims in a single application even when it appears that appropriate reasons exist for a restriction requirement. M.P.E.P. § 803. For instance, Applicant respectfully submits that a search for the invention(s) of Group I would necessarily overlap with a search for the invention(s) of Group II. Indeed, a thorough search for the subject matter of any one claim of the above-captioned patent application would overlap with a search for the subject matter of the remaining claims such that a search and examination of the entire application can be made without serious burden. Therefore, Applicant respectfully requests reconsideration and withdrawal of the restriction requirement. To avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent

Office. Applicant respectfully requests that the above policy be applied in the present application because the subject matter of the pending claims is sufficiently related.

Furthermore, Applicant hereby elects the plant essential oil species of phenyl ethyl alcohol, upon which it is believed that at least claims 1, 2, 4, 5, and 7 are generic. The species election is made without traverse to extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims.

Early consideration and prompt allowance of the pending claims are respectfully requested. If anything could be done to place this application in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned representative at the telephone number listed below.

Please grant any extension of time necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account No. 50-0417.

Respectfully submitted,



Willem F. Gadiano
Registration No. 37,136

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 WFG: jdh
Date: August 1, 2001
Facsimile: (202) 756-8087